

Notice of Demand No. 4

Notice to Agent is Notice to Principal and Notice to Principal is Notice to Agent

To: Senator Mark Blasdel, President of the Montana Senate
Mark.Blasdel@mtleg.gov, POB 1493, Kalispell MT 59903
Rep. Wylie Galt, Speaker of the Montana House
WylieGaltForMT@gmail.com, 10671 Ranch Road, Martinsdale MT 59053

Cc: MT Governor Greg Gianforte, POB 200801, Helena MT 59620-0801, Governor@mt.gov
MT Attorney General, 215 N. Sanders St, Helena MT 59601, ContactDOJ@mt.gov
All Montana legislators, by email
Public Release, by email and and public posting

Subject: Election Integrity

From: We The People of Montana

On behalf of the People of Montana, we are delivering to you notice that you and your agents may provide due care, diligence and competence in performing your duties, with transparency and accountability, to provide free and fair elections, and to respond to the People's concerns, in accordance with the principles established by the Declaration of Independence and the Bill of Rights, secondarily by the Constitution for the United States of America and the laws and Constitution for the State of Montana.

FINDINGS

We have been informed of the following. If there are any errors or omissions, please point them out.

ES&S

Numerous Montana County governments have abrogated their duty to provide free and fair elections to a foreign corporation known as ES&S, through the deployment and use of its proprietary machines. Furthermore, they have ceded total control of the relationship and equipment to ES&S by acceptance of its mandated contract terms, confidential training, and exclusive servicing.

Lack of Control, Transparency, and Accountability

Kirk F MacKenzie

Montana election officials "certified" the 2020 General Election results blindfolded, with zero transparency, no inspection of the machines, no inspection of the software, and no independent count or even inspection of the cast votes, indeed no clue what is inside those machines or what calculations they actually performed. Rather, they relied exclusively on faith in the totals reported by the ES&S equipment.

ES&S equipment does the ballot counting. ES&S contracts prohibit County election officers from inspecting the proprietary hardware and software used by its machines. ES&S software prohibits the inspection of individual cast votes. *"Unity software utilized by Flathead County during the 2020 General Election does not offer cast vote record technology, therefore, the requested information cannot be provided."* It only reports aggregated totals. It is possible it does not even record individual cast votes; we are still waiting for an answer to that question. In effect, ES&S conducts and controls the electronic equivalent of a secret "backroom" count that leaves no "paper trail" and cannot be validated against the physical paper ballots.

Dominion voting systems, it was discovered, were altered to continuously erase their system logs every couple of days. If ES&S machines do the same, as we suspect but have not yet confirmed, these systems have been designed to leave no audit-able "paper trail" nor "computer trail".

The County further eliminates transparency by charging citizens exorbitant fees to conduct FOIAs, even when for the public good. Case in point. Flathead Valley volunteers requested to conduct their own count of the ballot envelopes. The county demanded more than \$27,000 to comply. Residents pay their taxes, then have to pay more for transparency?! Such fees defeat the spirit if not the letter of the law.

Among the reasons the People institute governments is for transparency, accountability, and adherence to regulations. The People wonder: Can governments legally subcontract their work to foreign corporations? If so, should not corporations that perform government services be obligated to be every bit as transparent, accountable, and compliant? Is it legal to enter into contracts agreeing to secrecy and non-accountability?

Concerns About the Entire Election System

It is our understanding the problems with election machines are widespread, not only across Montana, but across the federation. There is competent and credible analysis from qualified, competent, and non-partisan mathematicians, computer experts, and others that our country's election machines are calculating, not counting votes to reach predetermined outcomes known as "set points".

Many, if not all, of these election machines appear to have the ability to interconnect to a central computer. This implies the independent, locally controlled election system defined by the Constitution has been turned into a central computer-controlled "Octopus", similar if not identical in operation to the network of Diebold bank teller ATM machines.

This equipment is being purchased at the direction of the federal government with federal grant money, as we understand it. Further information received, not yet verified, suggests Homeland Security designated all election equipment as critical infrastructure. If all of these things are true, "our" election system has gone through a revolution. The Octopus constitutes an unconstitutional and blatant federal usurpation of dual sovereignty and states rights that threatens the very fabric of representative democracy.

Ongoing Use and Expansion

Despite all of these concerns, Montana counties continue to use the ES&S equipment. Worse, they are purchasing more. Numerous justifications have been raised to justify these decisions. They have been rebutted. Any objective, rational analysis of costs and benefits heavily weighs in favor of saving the Republic, immediately stopping, or at least pausing the use of this equipment until all of these concerns have been concluded to the satisfaction of We The People of Montana.

The Secretary of State

The Secretary of State has the duty to insure free and fair elections. The Secretary's offices selected and certified the ES&S equipment, agreed to ES&S control of the relationship through its contracts, and put County election officials in the position of "certifying" elections they had not actually certified, i.e., without conducting their own vote counts, rather rely on faith in equipment it cannot inspect, software it cannot see, and vote counts it cannot see, from a company that demands total immunity, lack of transparency, and no accountability.

The Secretary of State was served a Notice of Demand with copies to the Governor, Attorney General, all senators and all representatives. There has been no response from the Secretary of State.

Despite all the plethora of new information coming out and our concerns, the Secretary of State has not to our knowledge initiated an audit of the ES&S machines used in the 2020 General Elections. Quite the opposite. We were told the Secretary of State approves the continued use, even the expansion of ES&S equipment. No action to our knowledge has been taken to invite other companies, new companies, to bid on new, better systems that address our concerns. No action to our knowledge has been taken to challenge federal encroachment into state sovereignty and the separation of powers.

We do not believe the lack of action on all of these concerns reflects the best interests of the People of Montana, and therefore question if it does not amount to maladministration, at best, and potentially worse.

CONCLUSIONS

We are shocked to discover the people we entrusted to protect one of the cornerstones of our republic so recklessly and illegally subcontracted their work to others. Governments were instituted by the People and given authority to conduct certain matters on our behalf. A delegated authority creates a duty to perform. We did not delegate these powers to corporations, nor did we authorize our governments to do so. Yet, State and County election officials have done so.

The lack of action is deeply troubling. It has been known and demonstrated, by both political parties, for at least a couple decades, that these election machines can easily be hacked. Nonetheless, they continued to be used. That was a questionable but perhaps understandable oversight. No such excuse continues going forward. The Counties and State are now aware of potential serious threats to the integrity of our election systems. Decisions to continue are willfully being made with full knowledge of these concerns. Ignorance can no longer be asserted.

Governments are instituted by the people solely for our benefit, to defend our lives, our property, and our unalienable rights, according to the principles laid out firstly in the Declaration of Independence and the Bill of Rights, secondarily by the federal and state constitutions to insure the former. We pay for this with our labors. Government officials are our agents with fiduciary and trust duties to us, legally required in part to perform their offices with loyalty, competence, diligence, due care, transparency, and accountability.

If the Counties and State proceed with the use of the present machines, even the purchase of more, the individuals responsible willfully and conscientiously deny our demands to have free, open, and genuine election systems; deny us our votes; and deny us genuine public input and participation prior to such important decisions being made. They do so without considering the good faith mathematical and other analyses that have come out, conducting local inspections of the systems, and without having performed the full audits necessary to authoritatively compare the accuracy of electronic votes against physical ballots.

SUPPORTING DOCUMENTS

Hereby incorporated are documents that are available online upon request.

- June 28, 2021 Article 02: *Maricopa County Announces They Will No Longer Use The 2020 Voting Machines*
- August 25, 2021 MacKenzie Letter 01 to the Commissioners
- September 3, 2021 Article 01: *Experts Call for Rigorous Audit to Protect California Recall*
- September 6, 2021 Affidavit 01 of Kirk F. MacKenzie
- September 7, 2021 Notice of Demand 01
- September 7, 2021 FOIA 01 re: voter database
- September 10, 2021 ESS Software Agreement
- September 10-14, 2021 additional Affidavits in support of Affidavit No. 1
- September 19, 2021 Affidavit 01 Amended
- September 19, 2021 FOIA 02 re: ES&S agreements, certification of the 2020 general election
- September 19, 2021 FOIA 03 re: ES&S communications with Flathead County
- September 20, 2021 MacKenzie letter to the Commissioners and Debbie Pierson
- September 22, 2021 Debbie Pierson response to FOIA 01
- September 27, 2021 Notice of Demand 02
- September 27, 2021 Flathead County FOIA estimate to prepare ballot envelopes for count \$14,029.94
- September 27, 2021 Flathead County Staffing Estimate to supervise ballot envelope count \$13,570.94
- September 29, 2021 Notice of Demand to SOS of Kirk F. MacKenzie
- September 30, 2021 Notice of Demands 02 In Support
- September 30, 2021 Notice of Demands 03A In Support
- September 30, 2021 Notice of Demands 03B In Support
- September 30, 2021 MT Legislators requesting a Senate Select Committee
- October 5, 2021 Blasdale-Galt letters in response to the MT Legislators (2)

DEMANDS

To date, we believe the response to the threats to our Republic by Montana governments at all levels—State, County, and Local—have been lethargic, incompetent, a disgrace. Most appear to be sitting in the bleachers, watching the show, as our country goes up in flames.

The foundation of our republic is threatened. The People's confidence is shaken, not only in the election process and the 2020 General Elections, but in government itself. We can not, will not move forward, can not restore faith, until there has been a full, honest, accurate, transparent, independent, constitutionally-driven, and immediate audit of the 2020 General Election, including all downline elections.

Having failed to obtain a satisfactory response from the Secretary of the State, We The People now demand action from the legislative body. We are the owners of all powers. We do not beg. We do not plead. We do not seek to convince. We demand. Therefore, we submit the following demands on behalf of all the People of Montana.

1. Take our concerns seriously. The future of our country is at stake. A little time and money is a small price to pay to secure for our children a future as good as our past. It is our money. We demand this small portion of it be used to restore an honest election system we can have trust and faith in. You may be elected to represent us, but that does not make you better, smarter, or more qualified. Nor make our voices of little concern. We The People are free and equal. We are many, we are concerned, we are smart, competent individuals who demand active participation in what goes on, especially now that the election process—the last surviving cornerstone of representative democracy—is threatened.
2. Immediately suspend the use and purchase of ES&S and similar election systems throughout the State until all of our demands have been fully and satisfactorily met.
3. Immediately demand the removal and secure preservation of all storage media—hard drives, memory sticks, CD-ROM, other—used by the ES&S equipment for the 2020 General Election. **DO NOT WIPE THESE MEDIA TO INSTALL NEW SOFTWARE OR FOR ANY OTHER REASON.** They can be readily replaced with new media at nominal cost.
4. Complete by the end of 2021, at State expense, with full citizen-participation, full audits of all ballots, all races, in the 2020 General Elections. Such audits are to include full and open forensic investigations of all voting equipment used, release of all data recorded by these machines, inspection and recounts of all ballots and mail-in ballot envelopes, citizen-supported canvassing of the voter roles, and all other items that citizens request. Publicly release and publish online unredacted full versions of these reports.
5. Publish online the State's criteria and proposals for a revamped election system. Openly seek and embrace public input and cooperation. Give the People an opportunity to express their will by placing the relevant questions on a ballot for the People to vote on.

6. Immediately authorize and convene the Senate Select Committee already requested by 86 Montana State legislators, under the chairmanship of Senator Theresa Manzella. Your preliminary response was inadequate. Time is of the essence. We need to move forward now.
7. Have the revised legislation, rules, procedures, and equipment in place well in advance of the 2022 midterm elections.
8. Deliver a written response by November 3, 2021 to Mr. MacKenzie via email or mail at the addresses below.

All political power is vested in and derived from the people. All government of right originates with the people, is founded upon their will only, and is instituted solely for the good of the whole. The people have the exclusive right of governing themselves as a free, sovereign, and independent state. They may alter or abolish the constitution and form of government whenever they deem it necessary.—Constitution of Montana, Article I Sections 1-2. The time may be coming, and that not far off, when the People may exercise its power due to government maladministration.

I hereby state to the best of my knowledge the statements are true and supported by law.

 ~~XXXXXXXXXX~~ *Kirk F MacKenzie* 10.13.2021
 Kirk F. MacKenzie Date
 11171 Seery Drive, Bigfork MT 59911
 Kirk@DefendRuralAmerica.com

CO-SIGNERS

We wholeheartedly join Mr. MacKenzie in co-signing and submitting this Notice of Demand No. 4.

Signature		Date	
Print name			
Address		Zip	
City	County	State	

Signature		Date	
Print name			
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Signature		Date	
Print name			
Address		Zip	
City	County	State	

JURAT

State/Commonwealth of VIRGINIA

☐ City ☒ County of Hampton)

On 10/13/2021, before me, Dalarrian Featherston,
Date Notary Name

the foregoing instrument was subscribed and sworn (or affirmed) before me by:

Kirk F MacKenzie

Name of Affiant(s)

☐ Personally known to me -- **OR** --

☐ Proved to me on the basis of the oath of _____ -- OR --
Name of Credible Witness

☒ Proved to me on the basis of satisfactory evidence: driver_license
Type of ID Presented



WITNESS my hand and official seal.

Notary Public Signature: 

Notary Name: Dalarrian Featherston

Notary Commission Number: 7938299

Notary Commission Expires: 03/31/2025

Notarized online using audio-video communication

DESCRIPTION OF ATTACHED DOCUMENT

Title or Type of Document: Notice of demand

Document Date: 10/13/2021

Number of Pages (including notarial certificate): 5